IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.23554 of 2000

Dated: 20-06-2007

Between:

Annamdevula Brahmaji Rao, s/o Surayya.

... Petitioner

and

1. The Collector, East Godavari District,
   Kakinda, representing the State of Andhra Pradesh,
   Kakinada and another.

... Respondents

ORDER:

Petitioner states that an extent of Ac.0-60 cents in Sy.No.56/12-B of Kadiyapusavaram village, Kadiyam Mandal, East Godavari District belonging to him was acquired by respondents for the purpose of burial ground to the people belonging to Scheduled Caste community. According to him, as it was not such an urgency, respondents ought not to have dispensed with the enquiry as provided for under Section 5-A of the Land Acquisition Act, 1884 (for short, 'the

Act'). However, by invoking the provisions of Section 17 of the Act, the said enquiry was dispensed with and hence, he approached this Court and filed the present writ petition seeking a *mandamus* to declare the action of respondents in seeking to acquire the said land as per notification in Ref.(G3)3298/2000, dated
01-11-2000 by first respondent, as illegal and arbitrary and consequently direct respondents to drop all further proceedings. Interim prayer sought for by him was only to direct respondents not to interfere with his possession and enjoyment of the land in question and the interim stay as prayer for was granted by this Court on 02-12-2000, in W.P.M.P.No.30108 of 2000.

2. Despite the fact that notices are served to respondents pursuant to the *Rule nisi* issued by this Court, they have not chosen to file any counter affidavit.

3. When once an interim order is restricted to stay of dispossession, respondent authorities shall complete the other proceedings such as issuance of draft declaration under Section 6 of the Act and issue of notices under Section 9 of the Act and pass an award as provided for under Section 11 of the Act. If no award is passed within two years from the date of declaration, according to Section 11-A of the Act,
all proceedings automatically get lapsed. Since no counter affidavit is filed on behalf of respondents, it is not known as to whether the award is passed or not and it is deemed that no award has been passed and hence, the proceedings must have got lapsed under Section 11-A of the Act.

4. Accordingly, the writ petition is allowed and the proceedings i.e.

issuance of notification under Section 4(1) of the Act, proposing to acquire the land in an extent of Ac.0-60 cents belongs to petitioner for the purpose of burial ground in the village, is hereby set aside. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.20-06-2007
GLV